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FW: EPA's Efforts to Protect the Public from Widespread PFOA Contamination
To: CMS.OEX@epamail.epa.gov

From: Tina Sigurdson [mailto:tsigurdson@ewg.org]
Sent: Monday, April 25, 2016 10:25 AM
To: Mccarthy, Gina <McCarthy.Gina@epa.gov>
Subject: EPA's Efforts to Protect the Public from Widespread PFOA Contamination

Dear Administrator McCarthy,

I am writing on behalf of the Environmental Working Group to share our concerns about the ongoing public health crisis caused by perfluorooctanoic acid (PFOA) contamination in drinking water.

I respectfully submit the attached letter from our president, Ken Cook, and other colleagues, which we have also sent to your office via physical mail.

Thank you very much for your attention.

Sincerely,

Tina Sigurdson

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Tina Sigurdson

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Protect your health.

April 25, 2016

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: EPA's Efforts to Protect the Public from Widespread PFOA Contamination

Dear Administrator McCarthy,

We respectfully submit this letter on behalf of the Environmental Working Group to raise concerns about the U.S. Environmental Protection Agency's handling of the ongoing public health crisis stemming from perfluorooctanoic acid (PFOA) contamination of drinking water. In the 15 years since PFOA contamination first came to the agency's attention, the known scope of contamination has gone from a regional problem to a national public health crisis that continues to widen, with no apparent end in sight:

- EPA was *first alerted in 2001* to the severe PFOA contamination of public water systems in the vicinity of DuPont's Washington Works plant in Parkersburg, W.Va., located in the heart of the mid-Ohio River Valley.¹ That revelation prompted a class-action lawsuit against DuPont on behalf of 70,000 residents of the region, the settlement of which is funding the filtration of six public water system in an effort to make the water drinkable. Of course, it should be noted that two of the largest and currently most contaminated systems were excluded from that mitigation effort. Further, the pollution remains widespread in the surrounding environment.
- Regulators are now detecting PFOA contamination in a growing string of small towns and private wells in New England, after a private citizen discovered the chemical in the drinking water of Hoosick Falls, N.Y.² EPA has issued a special advisory to Hoosick Falls citizens, urging them not to drink water contaminated at a level *75 percent lower* than the Agency's 2009 nationwide provisional health advisory level. EPA has not issued the lower-level advisory for other locations, even though the agency is well aware of the ongoing problem in Parkersburg and recent test results collected throughout the country.
- Since 2013, testing under EPA's "Unregulated Contaminant Monitoring Rule" has detected PFOA in more than 100 public water systems serving almost seven million people in 27 states, at average levels *five to 174 times more* than current independent

¹ Letter from Robert A. Bilott, Partner, Taft, Stettinius & Hollister LLP, to Christine T. Whitman, Administrator, U.S. Env'tl. Prot. Agency, et al. (Mar. 6, 2001) (on file with Env'tl. Working Group).

² Cameron McWhirter & Mike Vilensky, "Vermont Officials Find Widespread Contamination in Water Wells Near Chemical Plant," Wall St. J., Mar. 15, 2016, <http://www.wsj.com/articles/vermont-officials-find-widespread-contamination-in-water-wells-near-chemical-plant-1458081521>.



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peer-reviewed research says is safe.³ Although those findings are disconcerting in and of themselves, the unfortunate truth is that the full extent of nationwide PFOA contamination remains unknown — not only due to EPA's decision to overlook levels of PFOA below a certain threshold in its testing protocols, but also the fact that the UCMR only covers a miniscule number of small public water systems, and does not encompass private wells.

EWG, which has been investigating, analyzing and reporting on PFOA and related issues since 2002, fully appreciates the magnitude and complexity of this issue. That said, we remain deeply troubled by the agency's glacial pace and uneven approach to protecting the public from this highly persistent, bioaccumulative and toxic chemical. In particular, it escapes all logic as to why EPA would issue conflicting health advisory levels for PFOA, which are leading to confusion and varied responses to the problem. We therefore urge the agency to expeditiously take the following steps:

1. **Act swiftly to establish an enforceable drinking water standard for PFOA as a contaminant under the federal Safe Drinking Water Act;**
2. **At minimum, issue a uniform, health-protective health advisory level for PFOA;**
3. **Utilize results from state-of-the-art testing capabilities to detect PFOA in water without discarding or discounting low-level findings; and**
4. **Draw on available production, use, and disposal information, as well as all available water testing results, to enhance and expand sample testing of community water systems to determine what other localities may be at risk and identify and remediate the sources of water contamination. The agency should not only use all available information, but employ the full extent of its regulatory authority to supplement that information with whatever additional manufacturing, processing, and use data it can compel from companies, voluntarily or otherwise.**

EWG is a national environmental health organization dedicated to empowering people to live healthier lives in a healthier environment. For more than two decades, the organization has used groundbreaking research, education, and advocacy to shape public policy and hold polluters accountable in an effort to protect communities from exposures to toxic chemicals. One of the principal chemicals EWG is concerned with is PFOA. Until recently in the United States, PFOA was used in vast quantities to make Teflon, a substance commonly associated with nonstick cookware, among other products. Its use in a wide array of consumer and industrial products, combined with its remarkable persistence and bioaccumulation, is why the chemical can be found in just about everyone's bodies and bloodstream, as evidenced through biomonitoring.⁴ At

³ Env'tl. Working Group, Teflon Chemical Harmful at Smallest Doses (2015), <http://www.ewg.org/research/teflon-chemical-harmful-at-smallest-doses> [hereinafter Env'tl. Working Group, Smallest Doses].

⁴ Antonia Calafat et al., "Polyfluoroalkyl Chemicals in the U.S. Population: Data from the National Health and Nutrition Examination Survey (NHANES) 2003–2004 and Comparisons with NHANES 1999–2000," Env'tl. Health



the same time, there is clear consensus in the scientific literature that PFOA is linked to cancer, hormone disruption, heart disease, and other adverse health effects.⁵

The reality is that the chemical industry has known about PFOA's potential health effects for decades, yet withheld that information from regulators and the general public — at least until it was uncovered through private litigation. In 2002, EWG published internal company documents unearthed by plaintiffs' attorney Robert Bilott⁶ revealing that DuPont, one of the world's biggest chemical producers, secretly tested tap water in Parkersburg, W.Va., near the company's Teflon plant, and found alarming levels of PFOA.⁷ DuPont also withheld a study it conducted of plant workers showing that at least two of them had children with birth defects potentially linked to PFOA exposure.⁸ True to mission, EWG sought to hold DuPont accountable for its secrecy, petitioning EPA to investigate the company's withholding of those studies,⁹ a blatant violation of Section 8(e) of the federal Toxic Substances Control Act,¹⁰ which requires companies to publicly submit such information to the agency. EWG's petition prompted EPA to levy a then-record \$16.5 million fine against DuPont¹¹ — a paltry amount compared to the company's multi-billion dollar annual revenue — yet left unresolved what to do about the widespread contamination in the mid-Ohio River Valley.

Since the agency's fine against DuPont, Mr. Bilott and the public interest community have continued to seek justice for local residents. Litigation continues against DuPont for ravaging the communities' water supplies. Through it, and related settlement efforts, scientists have published even stronger evidence of PFOA's harms to human health.¹² In the face of such information,

Perspectives, Aug. 29, 2007, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2072821/> [hereinafter Calafat, "Polyfluoroalkyl"].

⁵ Philippe Grandjean & Richard Clapp, "Perfluorinated Alkyl Substances: Emerging Insights Into Health Risks," *New Solutions*, June 17, 2015, <http://new.sagepub.com/content/25/2/147>.

⁶ Nathaniel Rich, "The Lawyer Who Became DuPont's Worst Nightmare," *N.Y. Times*, Jan. 6, 2016, http://www.nytimes.com/2016/01/10/magazine/the-lawyer-who-became-duponts-worst-nightmare.html?_r=0. While investigating livestock deaths on a farm near Parkersburg, Mr. Bilott had the prescience to connect the dots back to DuPont's nearby plant, setting in motion one of the most significant efforts to hold big polluters accountable in recent times.

⁷ Env'tl. Working Group, *DuPont Hid Teflon Pollution for Decades* (2002), <http://www.ewg.org/research/dupont-hid-teflon-pollution-decades>.

⁸ *Id.*

⁹ Letter from Ken Cook, President, Env'tl. Working Group, to Christine T. Whitman, Administrator, U.S. Env'tl. Prot. Agency (Apr. 11, 2003), <http://www.ewg.org/news/testimony-official-correspondence/ewg-tsca-8e-petition-us-epa>.

¹⁰ 15 U.S.C. § 2607(e) (Anyone "who manufactures . . . a chemical . . . and who obtains information which reasonably supports the conclusion that such substance . . . presents a substantial risk . . . shall immediately inform the [EPA].").

¹¹ Press Release, Env'tl. Working Grp., *EPA Fines Teflon Maker DuPont for Chemical Cover-Up* (Dec. 14, 2005), <http://www.ewg.org/news/news-releases/2005/12/14/epa-fines-teflon-maker-dupont-chemical-cover>.

¹² C8 Science Panel, *C8 Probable Link Reports*, http://www.c8sciencepanel.org/prob_link.html (last updated Oct. 29, 2012) (last visited Apr. 22, 2016).



eight chemical makers agreed to cease production of PFOA by the end of 2015,¹³ although production continues abroad by different manufacturers¹⁴ and it is unclear if products made with PFOA are still being imported into the country. Despite phasing out PFOA, DuPont continues to forestall its promises to clean up the residents' water and provide them with necessary medical monitoring.¹⁵ Further, the environment surrounding the Parkersburg plant remains polluted with the chemical.

For more than a decade, Mr. Bilott, EWG and other stakeholders have written or petitioned EPA to raise concerns similar to those addressed in this letter, urging the agency to do more to protect the health of Americans in the mid-Ohio Valley and elsewhere in the country.¹⁶ Yet, EPA has failed to make any real headway toward establishing a national drinking water standard for PFOA, even though such action would go a long way toward protecting communities from exposures to the chemical. To be fair, in 2009, EPA published a provisional health advisory for the chemical in water.¹⁷ It has since released a draft assessment of PFOA's health effects in 2014,¹⁸ which could lead to the agency updating its advisory or pursuing additional action. However, EPA remains years away at best from establishing a legally enforceable limit.

As the case unfolding in Hoosick Falls, N.Y., illustrates, EPA's action is far too little and far too late, especially considering limitations in the way *unregulated* contaminants are monitored under the Safe Drinking Water Act.¹⁹ The village in upstate New York is too small to have its water system included for testing under the UCMR, which is required only of public water systems serving at least 10,000 customers (plus a limited sampling of smaller systems).²⁰ In 2014, a resident of Hoosick Falls paid for private testing of his tap water after his father died of kidney cancer.²¹ The results showed high levels of PFOA.²² Although health officials initially

¹³ U.S. Env'tl. Prot. Agency, 2010/2015 PFOA Stewardship Program, <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/20102015-pfoa-stewardship-program> (last visited Apr. 21, 2016).

¹⁴ Sharon Lerner, "Teflon Toxin Contamination Has Spread Throughout the World," *Intercept*, Apr. 19, 2016, <https://theintercept.com/2016/04/19/teflon-toxin-contamination-has-spread-throughout-the-world/>.

¹⁵ Env'tl. Working Group, *Poisoned Legacy: Holding DuPont to Its Promises* (2015), <http://www.ewg.org/research/poisoned-legacy/holding-dupont-its-promises>.

¹⁶ See, e.g., Letter from Robert A. Bilott, Partner, Taft, Stettinius & Hollister LLP, to Gina McCarthy, Administrator, U.S. Env'tl. Prot. Agency, et al. (Mar. 1, 2016) (on file with Env'tl. Working Group) (request for immediate investigation, abatement, monitoring, and testing in response to PFOA contamination of cities of Vienna and Parkersburg, W.Va.'s drinking water supply).

¹⁷ U.S. Env'tl. Prot. Agency, *Provisional Health Advisories for Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS)* (2009), <https://www.epa.gov/sites/production/files/2015-09/documents/pfoa-pfos-provisional.pdf> [hereinafter Env'tl. Prot. Agency, 2009 Advisory].

¹⁸ U.S. Env'tl. Prot. Agency, *Draft: Health Effects Document for Perfluorooctanoic Acid (PFOA)* (2014), [https://peerreview.versar.com/epa/pfoa/pdf/Health-Effects-Document-for-Perfluorooctanoic-Acid-\(PFOA\).pdf](https://peerreview.versar.com/epa/pfoa/pdf/Health-Effects-Document-for-Perfluorooctanoic-Acid-(PFOA).pdf).

¹⁹ See *infra* note 44.

²⁰ See *infra* note 45.

²¹ Jesse McKinley, "Fears About Water Supply Grip Village That Made Teflon Products," *N.Y. Times*, Feb. 28, 2016, <http://www.nytimes.com/2016/02/29/nyregion/fears-about-water-supply-grip-village-that-made-teflon-products.html> [hereinafter McKinley, "Fears"].

²² *Id.*



downplayed those results,²³ media coverage and complaints from citizens spurred further testing that found PFOA contamination in nearby North Bennington, Vt., and subsequently in other communities in the region.²⁴ Analyses have since revealed that the chemical came from two chemical plants in the area formerly operated by Saint-Gobain Performance Plastics, now owned by Honeywell International.²⁵ That knowledge in turn has informed state officials' testing of other public systems or private wells in locations where Saint-Gobain or related companies are known to have used PFOA. It is reasonable to suspect that further contamination is lurking in other communities' water nationwide, but without complete and reliable information about the locations of all facilities that made, used or disposed of PFOA, state and local authorities do not know where they should conduct additional testing.²⁶

Given the magnitude of this problem, EWG again calls on EPA to effectively protect the public from the harms of PFOA contamination. Specifically, we ask EPA to take the following steps:

- 1. Act swiftly to establish an enforceable drinking water standard for PFOA under the Safe Drinking Water Act.**

Congress passed the Safe Drinking Water Act in 1974 so that EPA could protect the public from threats to clean drinking water.²⁷ Under the Act, EPA must establish an enforceable limit for a contaminant when it is likely to harm people; it is widely found in water supplies at levels associated with adverse health effects; and creating a limit would present a “meaningful opportunity” for EPA to improve public health.²⁸ The agency has used that authority over the years to limit more than 90 toxic pollutants such as arsenic, benzene, lead, and mercury. More than a decade has passed since EPA last established an enforceable limit for a new chemical under the Act, even though PFOA poses *precisely* the kind of hazard Congress intended for it to address.²⁹

²³ Scott Waldman, “State Health Commissioner Questioned on Handling of Upstate Water Issue,” POLITICO New York, Jan. 26, 2016, <http://www.capitalnewyork.com/article/albany/2016/01/8589033/state-health-commissioner-questioned-handling-upstate-water-issue>.

²⁴ Brad Evans, “More Wells Test Positive for PFOA, Sampling Area Expands,” WPTZ.com, Mar. 21, 2016, <http://www.wptz.com/news/more-wells-test-positive-for-pfoa-sampling-area-expands/38618884>.

²⁵ McKinley, “Fears,” *supra* note 21.

²⁶ In contrast, the U.S. Defense Department, after learning that PFOA from firefighting foam had contaminated water at two naval airfields, launched an effort to test water at more than 600 sites nationwide. Jennifer McDermott, “Military to Check for Water Contamination at 664 Sites,” Assoc. Press, Mar. 10, 2016, <http://bigstory.ap.org/article/3fddbe0cefc04d9bb6af184749f095b0/military-check-water-contamination-664-sites>.

²⁷ U.S. Env'tl. Prot. Agency, Understanding the Safe Drinking Water Act Fact Sheet (2004), <https://www.epa.gov/sites/production/files/2015-04/documents/epa816f04030.pdf>.

²⁸ 42 U.S.C. § 300g-1(b)(1)(A) ((1) “may have an adverse effect on the health of persons”; (2) “is known to occur or there is a substantial likelihood that the contaminant will occur in public water systems with a frequency and at levels of public health concern”; and (3) “in the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by public water system”).

²⁹ U.S. Env'tl. Prot. Agency, Regulation Timeline: Contaminants Regulated Under the Safe Drinking Water Act, https://www.epa.gov/sites/production/files/2015-10/documents/dw_regulation_timeline.pdf (last updated Sept. 2015).



First, the scientific literature leaves little room for doubt — PFOA causes harm to people. According to studies, there is a probable link between PFOA in drinking water and cancer, birth defects and heart disease.³⁰ Further, PFOA is ubiquitous, with the chemical detectable in just about every American's blood.³¹ Expecting mothers exposed to the chemical pass it on to their children, often before they even take their first breath, or early on through breast feeding.³² Several studies suggest PFOA may also weaken the immune system, prompting the National Toxicology Program to initiate a systematic review of such effects on human health.³³ To make matters worse, new evidence indicates that it can be hazardous even in trace amounts. Although EPA guidance has suggested that people should avoid drinking water with 400 parts per trillion or greater of PFOA — lowered to 100 parts per trillion only for the advisory to Hoosick Falls — a drinking water level protective of health should be *0.3 parts per trillion or lower*, suggesting that EPA may be way off on its mark with respect to identifying a safe drinking water level to avoid potential harm.³⁴

Second, PFOA frequently contaminates public water systems at levels exceeding those that present risks to human health. Although research indicates that PFOA can be toxic at much lower concentrations than previously thought, EPA continues to underestimate the public's exposure through drinking water. EPA's national testing has found PFOA in more than 100 public water systems. According to test results, almost seven million Americans in 27 states drink water laced with PFOA. Of course, in reality, PFOA is likely found in many more systems than EPA has reported.

Finally, setting an enforceable limit for PFOA in drinking water would greatly reduce the contaminant's threat to communities *nationwide*, regardless of the size of the community served by its water system, since most smaller community water systems have never tested for PFOA, currently being an unregulated contaminant.

Accordingly, EPA must finally set a legally enforceable limit for PFOA, one that reflects the latest science about its harmful effects. As for timing, EPA estimated in 2014 that it will take somewhere between five to seven years to determine whether to even pursue a limit on PFOA.³⁵ Respectfully, that timeframe — in the face of the crisis we are seeing with respect to PFOA — borders on an abdication of the agency's responsibility to protect public health. The time to act is *now*.

³⁰ Env'tl. Working Group, Smallest Doses, supra note 3.

³¹ Calafat, "Polyfluoroalkyl," supra note 4.

³² Env'tl. Working Group, Smallest Doses, supra note 3.

³³ Systematic Review of Immunotoxicity Associated with Exposure to PFOA or PFOS, 80 Fed. Reg. 48,886 (Aug. 14, 2015), <https://www.gpo.gov/fdsys/pkg/FR-2015-08-14/pdf/2015-20122.pdf>.

³⁴ Env'tl. Working Group, Smallest Doses, supra note 3.

³⁵ Suzanne Yohannan, "EPA Proposes First-Time Risk Values for Chronic PFC Exposures," InsideEPA.com, Feb. 28, 2014, insideepa.com/daily-news/epa-proposes-first-time-risk-values-chronic-pfc-exposures.



2. At the very least issue a uniform, health-protective health advisory level for PFOA.

If EPA fails to establish an enforceable limit, the agency should at least update its guidance to issue a truly health-protective and consistent advisory that reflects PFOA's risks to health. EPA's advice to the public has thus far been inadequate and frankly confusing. EPA's 2009 provisional health advisory states that the public should not drink water contaminated with 400 parts per trillion of PFOA,³⁶ yet its recent advisory to residents of the Town of Hoosick and the Village of Hoosick Falls advised residents not to consume water from wells contaminated with 100 parts per trillion — one-fourth of the amount of the 2009 advisory.³⁷ Meanwhile, EPA's 2014 draft assessment of PFOA's health effects would translate to a limit of 100 parts per trillion in drinking water.³⁸

On Mar. 10, 2016, the governors of New York, Vermont and New Hampshire wrote a joint letter regarding PFOA contamination in their respective states to EPA. The governors said they were “deeply concerned for the health and well-being of our communities grappling with this contaminant” and noted:

It is clear that PFOA contamination is not a state problem or a regional problem — it's a national problem that requires federal guidelines and a consistent, science-based approach.

The EPA's PFOA health advisory was recently lowered in one village in New York by the EPA's Regional Office, though the higher advisory remains in the rest of the country. We urge the EPA, under your leadership, to expeditiously review the best available science on this contaminant, and *provide uniform guidance to states that our health and environmental officials can use in assessing the safety of our drinking water.* In addition, we seek your help and support for additional drinking water testing and analysis in communities exposed to PFOA.³⁹ (Emphasis added.)

EWG is aware that EPA is working to finalize a new advisory.⁴⁰ However, in the meantime, having different advisories applying to different communities sends mixed signals to communities threatened by PFOA contamination, which is likely to result in disparate responses by public health officials to address the problem.

³⁶ Env'tl. Prot. Agency, 2009 Advisory, supra note 17.

³⁷ U.S. Env'tl. Prot. Agency, EPA Statement on Private Wells in the Town of Hoosick and Village of Hoosick Falls, NY (Jan. 28, 2016) (on file with Env'tl. Working Group); Letter from Govs. Margaret Wood Hassan, Andrew M. Cuomo, and Peter Shumlin to Gina McCarthy, Administrator, U.S. Env'tl. Prot. Agency (Mar. 10, 2016) (on file with Env'tl. Working Group) [hereinafter Governors Letter].

³⁸ Env'tl. Working Group, Smallest Doses, supra note 3.

³⁹ Governors Letter, supra note 37.

⁴⁰ Laura Arenschiold, “DuPont's Toxic C8 Chemical Still Unchecked, Group Says,” Columbus Dispatch, Mar. 27, 2016, <http://www.dispatch.com/content/stories/local/2016/03/27/groups-say-ohio-feds-not-doing-enough-to-protect-against-toxic-dupont-chemical.html>.



For example, on Mar. 16, 2016, Vermont officials issued an interim enforcement standard of 20 parts per trillion for PFOA in drinking water, and said their decision was based on studies cited in the EPA's 2014 draft assessment. At the same time, Saint-Gobain is challenging the state's standard in court because it differs from the one being applied in surrounding states.⁴¹

Further, given that a health-protective level may actually be 0.3 parts per trillion, EPA should exercise the precautionary principle when issuing a new advisory, one that adequately takes into account studies that show adverse effects at such low levels.

3. Utilize results from state-of-the-art testing capabilities to detect PFOA in water without discarding or discounting low-level findings

EPA should be obligated to collect and account for all available testing results when monitoring for unregulated contaminants. The minimum reporting levels EPA requires for laboratories participating in testing of perfluorinated chemicals in the most recent UCMR unnecessarily discarded critically important information on the prevalence of those contaminants. EPA stated that the minimum levels "were established" based on the capability of the analytical methods used for monitoring, not based on a level established as "significant" or "harmful" to public health.⁴² The minimum level for PFOA in this UCMR was 20 parts per trillion. Years earlier, in 2009, the state of New Jersey was able to use a reporting limit of only *5 parts per trillion* using an equivalent testing method to the one used by EPA.⁴³

As our scientific understanding on the interaction of industrial chemicals and biological systems increases we are finding health concerns regarding exposures at lower and lower doses. Although detection limits and minimum reporting levels should be set based on the limitations of current detection methods, EWG disagrees with EPA about what the minimum reporting level is for detecting perfluorinated chemicals — which clearly should be lower as evidenced by the tests used in New Jersey.

EPA therefore should strengthen its criteria for determining the minimum reporting level for PFOA to be more reflective of the best available techniques and limit approved laboratories to those that can meet that better standard. Further, EPA should document the limit of detection and the reported test value for all samples results independent of the minimum reporting or detection limit required for certification as an EPA-approved testing laboratory.

⁴¹ See Neal P. Goswami, "Saint-Gobain Appeals State's Enforcement Level for PFOA," Vermont Press Bureau, Apr. 19, 2016, <http://www.vermontpressbureau.com/2016/04/19/saint-gobain-appeals-states-safe-level-for-pfoa/>.

⁴² U.S. Env'tl. Prot. Agency, The Third Unregulated Contaminant Monitoring Rule (UCMR 3): Data Summary (2016), https://www.epa.gov/sites/production/files/2015-11/documents/ucmr3_data_summary.pdf [hereinafter Env'tl. Prot. Agency, Data Summary].

⁴³ N.J. Dep't Env'tl. Prot., Occurrence of Perfluorinated Chemicals in Untreated New Jersey Drinking Water Sources (2014), <http://www.nj.gov/dep/watersupply/pdf/pfc-study.pdf>.



4. **Draw on available production, use, and disposal information, as well as all available water testing results, to enhance and expand sample testing of community water systems to determine what other localities may be at risk and identify and remediate the sources of water contamination. The agency should not only use all available information but employ the full extent of its regulatory authority to supplement that information with whatever additional manufacturing, processing, and use data it can compel from companies, voluntarily or otherwise.**

Every five years, EPA is required to develop a list of contaminants for community water systems to monitor, which may be present in drinking water, but are not yet subject to national drinking water standards.⁴⁴ The information EPA obtains through this listing and monitoring process is critical to understanding the occurrence of unregulated contaminants in drinking water and detecting associated health threats. However, the process is an imperfect tool for systematically assessing the country's drinking water for such contaminants. For example, the Safe Drinking Water Act only requires a "representative sample" of community water systems serving 10,000 or fewer people to monitor for unregulated contaminants on the list.⁴⁵ Further, private wells, which serve roughly 15 percent of the country's population, fall outside of the agency's purview altogether.⁴⁶

Notwithstanding those limitations, EWG urges EPA to take several steps to enhance the way it monitors water systems for unregulated contaminants. First, when the agency is developing a statistical design for sample selection, it should incorporate production, use, and disposal information received through the Toxic Substances Control Act.⁴⁷ Further, the agency should cull similar information from other available sources, collaborating with local and state authorities, surveying import data, reviewing trade publications, and encouraging chemical companies to volunteer input, as well. The agency should not only use all available information but employ the full extent of its regulatory authority to supplement that information with whatever additional manufacturing, processing and use data it can compel from companies, voluntarily or otherwise.

Together, this additional information would go a long way toward refining EPA's precision with respect to water system sampling and monitoring, especially in situations where only a handful of companies use(d) or produce(d) chemicals. Then, once EPA has received initial monitoring results, it should cross-reference again its inventory information and conduct additional testing of water systems that neighbor places of concern. Relatedly, the agency should employ innovative modeling techniques to track these systems' source waters. Doing so, will likely unveil additional clues about the origins, path and ultimate trajectory of unregulated contaminants, allowing EPA to alert communities in their wake.

⁴⁴ 42 U.S.C. § 300j-4(a)(2).

⁴⁵ *Id.* ("only a representative sample of systems serving 10,000 persons or fewer are required to monitor").

⁴⁶ U.S. Env'tl. Prot. Agency, About Private Wells, <https://www.epa.gov/privatewells/about-private-water-wells> (last visited Apr. 22, 2016).

⁴⁷ 15 U.S.C. § 2607.



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With respect to PFOA, EWG was heartened when EPA listed the chemical in 2012 in its most recent UCMR.⁴⁸ Through the UCMR, EPA found PFOA above the minimum reporting level in roughly one percent of its results, none of which exceeded the agency's 2009 health advisory concentration of 400 parts per trillion.⁴⁹ Notwithstanding those results, the recent revelations of PFOA contamination in Hoosick Falls and other New England communities clearly show that this problem is more widespread and serious than EPA's results suggest. Therefore, in order to more fully grasp the extent of PFOA contamination, the agency should follow up with monitoring of systems near localities where results showed elevated levels — either by relisting the chemical in its next UCMR or simply drawing on its broad authority to protect public health. Again, that effort would be greatly improved if EPA accounted for PFOA inventory information and investigated the origins of these localities' source waters. What will not do is the slow and uneven response EPA has employed ever since the public learned of DuPont's unconscionable harms to the people of Parkersburg, and more recently of the contamination caused by Saint-Gobain in Hoosick Falls and other New England communities where PFOA has been detected.

In closing, the public health crisis generated from years of PFOA contamination is grave indeed. Time is therefore of the essence and comprehensive agency action is paramount. We look forward to hearing from you with an update on EPA's efforts to address this widespread disaster.

Sincerely,

Ken Cook
President
Environmental Working Group

Thomas Cluderay
General Counsel
Environmental Working Group

Bill Walker
Investigations Editor
Environmental Working Group

Dave Andrews
Senior Scientist
Environmental Working Group

⁴⁸ Env'tl. Prot. Agency, Data Summary, supra note 42.

⁴⁹ Id. (345 of 35,060 results exceeded minimum reporting level of 0.02 µg/L for PFOA, none of which exceeded 0.4 µg/L).